

Appl. No. 09/744,874
Amdt. dated October 12, 2005
Reply to Office Action of June 14, 2005

REMARKS

Reconsideration of this application, and the rejection of claims 1-5, are respectfully requested. Applicants have attempted to address every objection and ground for rejection in the Office Action dated June 14, 2005 (Paper No. 06092005) and believe the application is now in condition for allowance. The claims have been amended to more clearly describe the present invention.

Claims 1-5 stand rejected under 35 U.S.C. §112 as being indefinite, regarding lack of antecedent basis for “the trigger”, “the relative length of the cable” and “the relative shortening or lengthening”. With the cancellation of these terms, the rejection thereof is considered moot.

Claims 1-5 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Rice (3,949,817) in view of Causey *et al.* (4,207,675) and Fox (5,598,892). Both Rice and Causey disclose supplemental handles in which the hand grip is radially displaced, but transversely oriented relative to the axis of the main shaft. Instead, in Causey, in Column 6, lines 28-32 it states: “. . . second handle includes two generally upstanding sides 82 which provide support for a grip 84 which runs generally perpendicular to the longitudinal axis of the elongated support pole 10”. In Rice, the similar secondary handle is identified at 32 (best seen in FIG. 4). Since Rice and Causey disclose similar secondary handles, the comments

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below focus on Causey, but are considered applicable to Rice as well. Fox discloses a supplemental handle grip 52 radially extending from the shaft 22, but in Fox, the supplemental handle is fixed relative to the main shaft.

One problem with the type of second hand grip disclosed in Causey is that, if used for a nail gun with the inherent operation occurring at the end of the main handle shaft, as depicted in FIG. 1 of the present application, it is likely that the handle will partially obscure visibility of the fastener target area on the workpiece. This is not an issue in Causey, with the application to chainsaws, operating in a substantially perpendicular direction with respect to the longitudinal main handle axis.

This problem of Causey when used with nail guns is not remedied by Fox. While Fox discloses a radially extending second hand grip, it fails to provide for either:

- full adjustment of the rotational orientation of the handgrip about the shaft to aid comfort and reduce the risk of strain injuries; or
- full linear adjustment to accommodate varying user arm lengths.

As amended, claim 1 now recites, among other things, that the second hand grip extends radially from the shaft and is positionable about and along the longitudinal axis of the shaft. Note that Applicants are focusing on the hand grip itself where the user's hand contacts the tool, as opposed to any supporting brackets for such a second handle. Applicants

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submit that this structure is neither disclosed nor suggested by any of the cited references, whether taken alone or in combination.

Also, neither Fox nor Causey recognize the problem solved by the presently claimed invention, since there is no discussion in either reference of the issues of operator comfort and varying arm lengths as described above. As such, there is no incentive to combine references as proposed by the Examiner. Even, assuming *arguendo*, that there were such an incentive, the combination of Fox with Causey in the secondary handle would require extensive modification beyond that disclosed in the references, since Fox's radial handle is threaded into a fixed receiving bracket, while Causey's bracket receives the handle transversely to the shaft, and is pivotable relative to the clamp as well.

Regarding new claim 14, support for which is found on page 7 of the specification and in FIG. 4, none of the cited references disclose or suggest a second handle with integral handle and collar portions, as now recited.

Applicants respectfully suggest that in the outstanding Action, the rejections based evidence "picking and choosing" features of various references, taking them out of context and combining them when there is no suggestion in those references to do so. It is impermissible within the framework of a 35 U.S.C. § 103 rejection to pick and choose from any one reference only so much of it as will support a given position to the exclusion of other



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parts necessary to the full appreciation of what such reference fairly suggests to one skilled in the art. Rice, Causey and Fox, whether considered alone or in combination, fail to disclose or suggest the invention as now recited in the amended claims. Further, the solution of a problem not recognized in the prior art is evidentiary of nonobviousness. As described above, the prior art references fail to consider the problems of operator fatigue or variations in arm length addressed by the present second handle as now recited. Accordingly, the Section 103 rejection based on this combination of references is respectfully traversed.

Applicants submit that, in view of the above-identified amendments and remarks, the claims in their present form are patentably distinct over the art of record. Allowance of the rejected claims is respectfully requested. Should the Examiner discover there are remaining issues which may be resolved by a telephone interview, she is invited to contact Applicants' undersigned attorney at the telephone number listed below.

Respectfully submitted,

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